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E-Filed 8/26/10

8 Attorneys for Plaintiffs

9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 **IN RE:**

Case No. NV-08-51131-GWZ

12 **CETUS MORTGAGE, LTD.,**

Chapter 7

13 Debtor.

Adv. No. _____

14 **CYNTHIA MORREY; RICHARD W.**
15 **EICHHORN; MICHAEL RHOADS, as**
16 **General Partner for SPRINGVILLE**
17 **INVESTORS II GP and as General Partner**
18 **for COUNTRY RHOADS ASSOCIATES**
19 **LP; PAUL S. FEARS; STACEY NOLL**
20 **FEARS; DEAN S. HAGEN as Trustee for**
21 **HAGEN LIVING TRUST; IRENE J.**
22 **HAGEN as Trustee for HAGEN LIVING**
23 **TRUST; ELMER R. VACCHINA as Trustee**
24 **for ELMER R. VACCHINA TRUST;**
25 **WILLIAM H. WRIGHT as Trustee for**
26 **WRIGHT FAMILY TRUST; ROSALIE M.**
27 **WRIGHT as Trustee for WRIGHT FAMILY**
28 **TRUST; STEVEN A. TUTTLE; NANCY R.**
TUTTLE; OPAL A. SMITH as Trustee of the
survivor's trust under the LEONARD W.
AND OPAL A. SMITH FAMILY TRUST;
GEORGE M. DIXON; JANIS A. DIXON;
ELSEY D. HARDEN as Trustee of
HARDEN 1992 FAMILY TRUST; MARIE
JEANNE HARDEN as Trustee of HARDEN
1992 FAMILY TRUST; MICHAEL
BENNING; LORI BENNING; BARBARA
D. BEAL as Trustee for BARBARA D.
BEAL LIVING TRUST; HELEN L. NOLTE
as Trustee for HELEN L. NOLTE LIVING
TRUST; CARY P. YOUNG; ERIN M.
YOUNG; PHILIP L. GREEN; DONNA M.
GREEN; RAY P. HOGLAND as Trustee for
2002 HOGLAND TRUST; WILLIAM H.
JEPHSON as Trustee for JEPHSON
FAMILY TRUST; ELEANOR J. JEPHSON

**COMPLAINT FOR JUDICIAL
FORECLOSURE, DECLARATORY
RELIEF**

1 as Trustee for JEPHSON FAMILY TRUST;
2 RANDALL R. RUCH as Trustee for
3 SCHUYKILL VALLEY SPORTING
4 GOODS, INC. PROFIT SHARING PLAN;
5 GERALD WILLIAMS as Trustee for
6 SCHUYKILL VALLEY SPORTING
7 GOODS, INC. PROFIT SHARING PLAN;
8 JAY SCHAEFFER, VICTOR ALAN
9 PERRY as Trustee for VICTOR ALAN
10 PERRY, LLC DEFINED BENEFIT
11 PENSION PLAN; and SHARLENE JONES
12 as executor for IRENE S. K. CHUN
13 (deceased).

14 Plaintiffs,

15 vs.

16 RONALD E. OSBORN; BRENT P.
17 OSBORN; OSBORN DEVELOPMENT,
18 CO., LLC, a Nevada limited liability
19 company, RV & YACHT I, LLC, a Nevada
20 limited liability company; BILL BOOTH;
21 LAVONE BOOTH; GENE E.
22 MCCLELLAND as Trustee for
23 MCCLELLAND LIVING TRUST;
24 PATRICIA L. MCCLELLAND as Trustee
25 for MCCLELLAND LIVING TRUST;
26 GEORGE C. SCHUMACHER; TERRY
27 ANNE SCHUMACHER; DUANE E.
28 FLESHMAN; JOHNNIE M. FLESHMAN;
STACY L. DOUTRE as custodian for
DEREK M. DOUTRE; RAJEN N. BHATT;
GINO V. MOTL; JOANNE
TOMASIEWICZ; PEGGY LAKEY;
RODGER LAKEY; WILLIAM T. HIGGS;
JUDY E. HIGGS; KELVIN R. LAIRD;
ROBERT J. FRICKE as Successor Trustee of
the FRICKE 2001 FAMILY TRUST;
DARLENE LUSTER; DEBRA LYNN
HORTON; HAZEL M. SIMMONS;
MARJORIE M. JONES; CHARLES E.
SLAVIN as Trustee for SLAVIN FAMILY
REVOCABLE TRUST; PATRICIA E.
SLAVIN as Trustee for SLAVIN FAMILY
REVOCABLE TRUST; PETER ALBERT
JEPHSON; ETHEL G. JEPHSON;
QUARLES G. GELTZ, JR.; LOA JEAN
GELTZ; STEPHEN F. GIES; SHARON
GIES; RICHARD P. ASH as Trustee for
RICHARD P. AND MARY L. ASH 1990
FAMILY TRUST; MARY L. ASH as
Trustee for RICHARD P. AND MARY L.
ASH 1990 FAMILY TRUST; GEORGE M.
DIXON as Trustee for DIXON ELECTRIC

PENSION PLAN TRUST; JENNIFER HICKOK; VERONICA DORRIE as Trustee for VERONICA DORRIE TRUST; JEANNE W. KEITH; RAY K. KEITH; HENRY L. CLARK as Trustee for HENRY L. CLARK AND ROBERTA L. CLARK 1993 FAMILY TRUST; ROBERTA L. CLARK as Trustee for HENRY L. CLARK AND ROBERTA L. CLARK 1993 FAMILY TRUST; JENNIFER R. HICKOK; C/F JAMISON LEIGH LUNDEMO; CAROL E. PORTA as Trustee for CAROL R. PORTA REVOCABLE TRUST; GAYLE ROBINSON; MICHAEL JOHN PONTRELLI as Trustee for PONTRELLI FAMILY TRUST; NORMA JEAN PONTRELLI as Trustee for PONTRELLI FAMILY TRUST; JONATHAN EDWARD ARNOW as Trustee for TESSA ARNOW TRUST; CLYDE R. BROWN as Trustee for BROWN FAMILY TRUST; SHARAN L. BROWN as Trustee for BROWN FAMILY TRUST; CYNTHIA G. DAVIS as Trustee for SECONDED AMENDED CYNTHIA G. DAVIS LIVING TRUST DATED JULY 1, 2004; TRACE W. GEIL; MARY A. GIANNOTTI as Trustee for GIANNOTTI FAMILY BYPASS TRUST CREATED UNDER THE GIANNOTTI 1990 REVOCABLE TRUST DATED OCTOBER 23, 1990; BEVERLY WALLACE; LOIS G. ROBINSON; JOHN R. LINDELL as Trustee for LINDELL'S PAINTING SERVICE MONEY PURCHASE PENSION PLAN AGREEMENT; BARBARA A. LINDELL as Trustee for LINDELL'S PAINTING SERVICE MONEY PURCHASE PENSION PLAN AGREEMENT; SHERRI KEY as Trustee for LINDELL'S PAINTING SERVICE MONEY PURCHASE PENSION PLAN AGREEMENT; ANGELIQUE CLARK as Trustee for CETUS MORTGAGE; and STOREY COUNTY, NEVADA

Defendants.

Plaintiffs CYNTHIA MORREY; RICHARD W. EICHHORN; MICHAEL RHOADS, as General Partner for SPRINGVILLE INVESTORS II GP and as General Partner for COUNTRY RHOADS ASSOCIATES LP; PAUL S. FEARS; STACEY NOLL

1 FEARS; DEAN S. HAGEN as Trustee for HAGEN LIVING TRUST; IRENE J. HAGEN as
2 Trustee for HAGEN LIVING TRUST; ELMER R. VACCHINA as Trustee for ELMER R.
3 VACCHINA TRUST; WILLIAM H. WRIGHT as Trustee for WRIGHT FAMILY TRUST;
4 ROSALIE M. WRIGHT as Trustee for WRIGHT FAMILY TRUST; STEVEN A. TUTTLE;
5 NANCY R. TUTTLE; OPAL A. SMITH as Trustee of the survivor's trust under the
6 LEONARD W. AND OPAL A. SMITH FAMILY TRUST; GEORGE M. DIXON; JANIS
7 A. DIXON; ELSEY D. HARDEN as Trustee of HARDEN 1992 FAMILY TRUST; MARIE
8 JEANNE HARDEN as Trustee of HARDEN 1992 FAMILY TRUST; MICHAEL
9 BENNING; LORI BENNING; BARBARA D. BEAL as Trustee for BARBARA D. BEAL
10 LIVING TRUST; HELEN L. NOLTE as Trustee for HELEN L. NOLTE LIVING TRUST;
11 CARY P. YOUNG; ERIN M. YOUNG; PHILIP L. GREEN; DONNA M. GREEN; RAY P.
12 HOGLAND as Trustee for 2002 HOGLAND TRUST; WILLIAM H. JEPHSON as Trustee
13 for JEPHSON FAMILY TRUST; ELEANOR J. JEPHSON as Trustee for JEPHSON
14 FAMILY TRUST; RANDALL R. RUCH as Trustee for SCHUYKILL VALLEY
15 SPORTING GOODS, INC. PROFIT SHARING PLAN; GERALD WILLIAMS as Trustee
16 for SCHUYKILL VALLEY SPORTING GOODS, INC. PROFIT SHARING PLAN; JAY
17 SCHAEFFER, and VICTOR ALAN PERRY as Trustee for VICTOR ALAN PERRY, LLC
18 DEFINED BENEFIT PENSION PLAN (hereinafter "Plaintiffs"),
19 as and for their complaint against Defendants RONALD E. OSBORN; BRENT P.
20 OSBORN; OSBORN DEVELOPMENT, CO., LLC, a Nevada limited liability company,
21 RV & YACHT I, LLC, a Nevada limited liability company; BILL BOOTH; LAVONE
22 BOOTH; GENE E. MCCLELLAND as Trustee for MCCLELLAND LIVING TRUST;
23 PATRICIA L. MCCLELLAND as Trustee for MCCLELLAND LIVING TRUST; GEORGE
24 C. SCHUMACHER; TERRY ANNE SCHUMACHER; DUANE E. FLESHMAN;
25 JOHNNIE M. FLESHMAN; STACY L. DOUTRE as custodian for DERREK M. DOUTRE;
26 RAJEN N. BHATT; GINO V. MOTL; JOANNE TOMASIEWICZ; PEGGY LAKEY;
27 RODGER LAKEY; WILLIAM T. HIGGS; JUDY E. HIGGS; KELVIN R. LAIRD;
28 ROBERT J. FRICKE as Successor Trustee of the FRICKE 2001 FAMILY TRUST;

1 DARLENE LUSTER; DEBRA LYNN HORTON; HAZEL M. SIMMONS; MARJORIE M.
 2 JONES; CHARLES E. SLAVIN as Trustee for SLAVIN FAMILY REVOCABLE TRUST;
 3 PATRICIA E. SLAVIN as Trustee for SLAVIN FAMILY REVOCABLE TRUST; PETER
 4 ALBERT JEPHSON; ETHEL G. JEPHSON; CHARLES G. GELTZ, JR.; LOA JEAN
 5 GELTZ; STEPHEN F. GIES; SHARON GIES; RICHARD P. ASH as Trustee for
 6 RICHARD P. AND MARY L. ASH 1990 FAMILY TRUST; MARY L. ASH as Trustee for
 7 RICHARD P. AND MARY L. ASH 1990 FAMILY TRUST; GEORGE M. DIXON as
 8 Trustee for DIXON ELECTRIC PENSION PLAN TRUST; JENNIFER HICKOK;
 9 VERONICA DORRIE as Trustee for VERONICA DORRIE TRUST; JEANNE W. KEITH;
 10 RAY K. KEITH; HENRY L. CLARK as Trustee for HENRY L. CLARK AND ROBERTA
 11 L. CLARK 1993 FAMILY TRUST; ROBERTA L. CLARK as Trustee for HENRY L.
 12 CLARK AND ROBERTA L. CLARK 1993 FAMILY TRUST; JENNIFER R. HICKOK;
 13 C/F JAMISON LEIGH LUNDEMO; CAROL E. PORTA as Trustee for CAROL R. PORTA
 14 REVOCABLE TRUST; GAYLE ROBINSON; MICHAEL JOHN PONTRELLI as Trustee
 15 for PONTRELLI FAMILY TRUST; NORMA JEAN PONTRELLI as Trustee for
 16 PONTRELLI FAMILY TRUST; JONATHAN EDWARD ARNOW as Trustee for TESSA
 17 ARNOW TRUST; CLYDE R. BROWN as Trustee for BROWN FAMILY TRUST;
 18 SHARAN L. BROWN as Trustee for BROWN FAMILY TRUST; CYNTHIA G. DAVIS as
 19 Trustee for SECONDED AMENDED CYNTHIA G. DAVIS LIVING TRUST DATED
 20 JULY 1, 2004; TRACE W. GEIL; MARY A. GIANNOTTI as Trustee for GIANNOTTI
 21 FAMILY BYPASS TRUST CREATED UNDER THE GIANNOTTI 1990 REVOCABLE
 22 TRUST DATED OCTOBER 23, 1990; BEVERLY WALLACE; LOIS G. ROBINSON;
 23 JOHN R. LINDELL as Trustee for LINDELL'S PAINTING SERVICE MONEY
 24 PURCHASE PENSION PLAN AGREEMENT; BARBARA A. LINDELL as Trustee for
 25 LINDELL'S PAINTING SERVICE MONEY PURCHASE PENSION PLAN
 26 AGREEMENT; SHERRI KEY as Trustee for LINDELL'S PAINTING SERVICE MONEY
 27 PURCHASE PENSION PLAN AGREEMENT; ANGELIQUE CLARK as Trustee for
 28 CETUS MORTGAGE; and STOREY COUNTY(hereinafter "Defendants"), hereby state and

1 allege as follows:

2 **JURISDICTION**

3 1. This Court has jurisdiction of this proceeding pursuant to 28 U.S.C. §§157(a)
4 and 1334 and LR 1001.

5 2. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (O).

6 3. Venue is proper in this court by reason of 28 U.S.C. §1409.

7 **PARTIES**

8 **Plaintiffs**

9 4. Plaintiff CYNTHIA MORREY, at all times mentioned herein, is and was an
10 individual residing in Washoe County, Nevada.

11 5. Plaintiff RICHARD W. EICHHORN, at all times mentioned herein, is and
12 was an individual residing in the state of Pennsylvania. EICHHORN has given a limited
13 power of attorney to Plaintiff Morrey authorizing her to manage this litigation and to
14 eventually liquidate the PROPERTY and to receive proportionate reimbursement for
15 expenditures incurred in this litigation.

16 6. Plaintiff MICHAEL RHOADS, at all times mentioned herein, is and was an
17 individual residing in the state of Pennsylvania, and is and was a General Partner for
18 SPRINGVILLE INVESTORS II GP and a General Partner for COUNTRY RHOADS
19 ASSOCIATES LP. RHOADS has given a limited power of attorney to Plaintiff Morrey
20 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
21 receive proportionate reimbursement for expenditures incurred in this litigation.

22 7. Plaintiff PAUL S. FEARS, at all times mentioned herein, is and was an
23 individual residing in the state of Pennsylvania. FEARS has given a limited power of
24 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
25 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
26 incurred in this litigation.

27 8. Plaintiff STACEY NOLL FEARS, at all times mentioned herein, is and was
28 an individual residing in the state of Pennsylvania. FEARS has given a limited power of

1 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
2 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
3 incurred in this litigation.

4 9. Plaintiff DEAN S. HAGEN, at all times mentioned herein, is and was an
5 individual residing in the state of Florida, and is and was a Trustee for HAGEN LIVING
6 TRUST. HAGEN has given a limited power of attorney to Plaintiff Morrey authorizing her
7 to manage this litigation and to eventually liquidate the PROPERTY and to receive
8 proportionate reimbursement for expenditures incurred in this litigation.

9 10. Plaintiff IRENE J. HAGEN, at all times mentioned herein, is and was an
10 individual residing in the state of Florida, and is and was a Trustee for HAGEN LIVING
11 TRUST. HAGEN has given a limited power of attorney to Plaintiff Morrey authorizing her
12 to manage this litigation and to eventually liquidate the PROPERTY and to receive
13 proportionate reimbursement for expenditures incurred in this litigation.

14 11. Plaintiff ELMER R. VACCHINA, at all times mentioned herein, is and was
15 an individual residing in Washoe County, Nevada, and is and was a Trustee for ELMER R.
16 VACCHINA TRUST. VACCHINA has given a limited power of attorney to Plaintiff
17 Morrey authorizing her to manage this litigation and to eventually liquidate the PROPERTY
18 and to receive proportionate reimbursement for expenditures incurred in this litigation.

19 12. Plaintiff ROSALIE M. WRIGHT, at all times mentioned herein, is and was
20 an individual residing in the state of California and is and was a Trustee for WRIGHT
21 FAMILY TRUST. WRIGHT has given a limited power of attorney to Plaintiff Morrey
22 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
23 receive proportionate reimbursement for expenditures incurred in this litigation.

24 13. Plaintiff WILLIAM H. WRIGHT was an individual residing in the state of
25 California and is now deceased. WRIGHT has given a limited power of attorney to Plaintiff
26 Morrey authorizing her to manage this litigation and to eventually liquidate the PROPERTY
27 and to receive proportionate reimbursement for expenditures incurred in this litigation.

28 14. Plaintiff STEVEN A. TUTTLE, at all times mentioned herein, is and was an

1 individual residing in Washoe County, Nevada. TUTTLE has given a limited power of
2 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
3 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
4 incurred in this litigation.

5 15. Plaintiff NANCY R. TUTTLE, at all times mentioned herein, is and was an
6 individual residing in Washoe County, Nevada. TUTTLE has given a limited power of
7 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
8 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
9 incurred in this litigation.

10 16. Plaintiff OPAL A. SMITH, at all times mentioned herein, is and was an
11 individual residing in Washoe County, Nevada, and is and was a Trustee of the survivor's
12 trust under the LEONARD W. AND OPAL A. SMITH FAMILY TRUST. SMITH has
13 given a limited power of attorney to Plaintiff Morrey authorizing her to manage this
14 litigation and to eventually liquidate the PROPERTY and to receive proportionate
15 reimbursement for expenditures incurred in this litigation.

16 17. Plaintiff GEORGE M. DIXON, at all times mentioned herein, is and was an
17 individual residing in Washoe County, Nevada. DIXON has given a limited power of
18 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
19 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
20 incurred in this litigation.

21 18. Plaintiff JANIS A. DIXON was an individual residing in Washoe County,
22 Nevada, and is now deceased. DIXON has given a limited power of attorney to Plaintiff
23 Morrey authorizing her to manage this litigation and to eventually liquidate the PROPERTY
24 and to receive proportionate reimbursement for expenditures incurred in this litigation.

25 19. Plaintiff ELSEY D. HARDEN, at all times mentioned herein, is and was an
26 individual residing in Washoe County, Nevada, and is and was a Trustee for HARDEN 1992
27 FAMILY TRUST. HARDEN has given a limited power of attorney to Plaintiff Morrey
28 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to

1 receive proportionate reimbursement for expenditures incurred in this litigation.

2 20. Plaintiff MARIE JEANNE HARDEN, at all times mentioned herein, is and
3 was an individual residing in Washoe County, Nevada, and is and was a Trustee for
4 HARDEN 1992 FAMILY TRUST. HARDEN has given a limited power of attorney to
5 Plaintiff Morrey authorizing her to manage this litigation and to eventually liquidate the
6 PROPERTY and to receive proportionate reimbursement for expenditures incurred in this
7 litigation.

8 21. Plaintiff MICHAEL BENNING, at all times mentioned herein, is and was an
9 individual residing in Washoe County, Nevada. BENNING has given a limited power of
10 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
11 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
12 incurred in this litigation.

13 22. Plaintiff LORI BENNING, at all times mentioned herein, is and was an
14 individual residing in Washoe County, Nevada. BENNING has given a limited power of
15 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
16 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
17 incurred in this litigation.

18 23. Plaintiff BARBARA D. BEAL, at all times mentioned herein, is and was an
19 individual residing in Washoe County, Nevada, and is and was a Trustee for BARBARA D.
20 BEAL LIVING TRUST. BEAL has given a limited power of attorney to Plaintiff Morrey
21 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
22 receive proportionate reimbursement for expenditures incurred in this litigation.

23 24. Plaintiff HELEN L. NOLTE, at all times mentioned herein, is and was an
24 individual residing in Washoe County, Nevada, and is and was a Trustee for HELEN L.
25 NOLTE LIVING TRUST. NOLTE has given a limited power of attorney to Plaintiff Morrey
26 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
27 receive proportionate reimbursement for expenditures incurred in this litigation.

28 25. Plaintiff CARY P. YOUNG, at all times mentioned herein, is and was an

1 individual residing in Washoe County, Nevada. YOUNG has given a limited power of
2 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
3 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
4 incurred in this litigation.

5 26. Plaintiff ERIN M. YOUNG, at all times mentioned herein, is and was an
6 individual residing in Washoe County, Nevada. YOUNG has given a limited power of
7 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
8 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
9 incurred in this litigation.

10 27. Plaintiff PHILLIP L. GREEN, at all times mentioned herein, is and was an
11 individual residing in the state of Colorado. GREEN has given a limited power of attorney
12 to Plaintiff Morrey authorizing her to manage this litigation and to eventually liquidate the
13 PROPERTY and to receive proportionate reimbursement for expenditures incurred in this
14 litigation.

15 28. Plaintiff DONNA M. GREEN, at all times mentioned herein, is and was an
16 individual residing in the state of Colorado. GREEN has given a limited power of attorney
17 to Plaintiff Morrey authorizing her to manage this litigation and to eventually liquidate the
18 PROPERTY and to receive proportionate reimbursement for expenditures incurred in this
19 litigation.

20 29. Plaintiff RAY P. HOGLAND, at all times mentioned herein, is and was an
21 individual residing in Washoe County, Nevada, and is and was a Trustee for 2002
22 HOGLAND TRUST. HOGLAND has given a limited power of attorney to Plaintiff Morrey
23 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
24 receive proportionate reimbursement for expenditures incurred in this litigation.

25 30. Plaintiff WILLIAM H. JEPHSON, at all times mentioned herein, is and was
26 an individual residing in Washoe County, Nevada, and is and was a Trustee for JEPHSON
27 FAMILY TRUST. JEPHSON has given a limited power of attorney to Plaintiff Morrey
28 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to

1 receive proportionate reimbursement for expenditures incurred in this litigation.

2 31. Plaintiff ELEANOR J. JEPHSON, at all times mentioned herein, is and was
3 an individual residing in Washoe County, Nevada, and is and was a Trustee for JEPHSON
4 FAMILY TRUST. JEPHSON has given a limited power of attorney to Plaintiff Morrey
5 authorizing her to manage this litigation and to eventually liquidate the PROPERTY and to
6 receive proportionate reimbursement for expenditures incurred in this litigation.

7 32. Plaintiff RANDALL R. RUCH, at all times mentioned herein, is and was an
8 individual residing in the state of Pennsylvania, and is and was a Trustee for SCHUYKILL
9 VALLEY SPORTING GOODS, INC. PROFIT SHARING PLAN. RUCH has given a
10 limited power of attorney to Plaintiff Morrey authorizing her to manage this litigation and to
11 eventually liquidate the PROPERTY and to receive proportionate reimbursement for
12 expenditures incurred in this litigation.

13 33. Plaintiff JAY SCHAEFFER, at all times mentioned herein, is and was an
14 individual residing in the state of Pennsylvania. SCHAEFFER has given a limited power of
15 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
16 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
17 incurred in this litigation

18 34. Plaintiff VICTOR ALAN PERRY as Trustee for VICTOR ALAN PERRY,
19 LLC DEFINED BENEFIT PENSION PLAN, is a resident of the State of Nevada, County of
20 Washoe. PERRY has given a limited power of attorney to Plaintiff Morrey authorizing her
21 to manage this litigation and to eventually liquidate the PROPERTY and to receive
22 proportionate reimbursement for expenditures incurred in this litigation.

23 35. Plaintiff SHARLENE JONES as executor for IRENE S. K. CHUN
24 (deceased), is a resident of the State of Washington. JONES has given a limited power of
25 attorney to Plaintiff Morrey authorizing her to manage this litigation and to eventually
26 liquidate the PROPERTY and to receive proportionate reimbursement for expenditures
27 incurred in this litigation.

28

Defendants

36. Plaintiff is informed and believes and thereon alleges that Defendant RONALD E. OSBORN, is a resident of the State of Nevada, County of Washoe.

37. Plaintiff is informed and believes and thereon alleges that Defendant BRENT P. OSBORN, is a resident of the State of Nevada, County of Washoe.

38. Plaintiff is informed and believes and thereon alleges that Defendant OSBORN DEVELOPMENT, CO., LLC, is a Nevada limited liability company with Defendant BRENT P. OSBORN or Defendant RONALD E. OSBORN acting as manager.

39. Plaintiff is informed and believes and thereon alleges that Defendant RV & YACHT I, LLC, is a Nevada limited liability company with Defendant BRENT P. OSBORN or Defendant RONALD E. OSBORN acting as manager.

40. Plaintiff is informed and believes and thereon alleges that Defendant BILL BOOTH, is a resident of the State of Nevada, County of Lyon.

41. Plaintiff is informed and believes and thereon alleges that Defendant LAVONE BOOTH, is a resident of the State of Nevada, County of Lyon.

42. Plaintiff is informed and believes and thereon alleges that Defendant GENE E. MCCLELLAND as Trustee for MCCLELLAND LIVING TRUST, is a resident of the State of Nevada, County of Washoe.

43. Plaintiff is informed and believes and thereon alleges that Defendant PATRICIA L. MCCLELLAND as Trustee for MCCLELLAND LIVING TRUST, is a resident of the State of Nevada, County of Washoe.

44. Plaintiff is informed and believes and thereon alleges that Defendant GEORGE C. SCHUMACHER, is a resident of the State of Illinois.

45. Plaintiff is informed and believes and thereon alleges that Defendant TERRY ANNE SCHUMACHER, is a resident of the State of Illinois.

46. Plaintiff is informed and believes and thereon alleges that Defendant DUANE E. FLESHMAN, is a resident of the State of Florida.

47. Plaintiff is informed and believes and thereon alleges that Defendant

1 JOHNNIE M. FLESHMAN, is a resident of the State of Florida.

2 48. Plaintiff is informed and believes and thereon alleges that Defendant STACY
3 L. DOUTRE as custodian for DEREK M. DOUTRE, is a resident of the State of Nevada,
4 County of Washoe.

5 49. Plaintiff is informed and believes and thereon alleges that Defendant RAJEN
6 N. BHATT, is a resident of the State of Nevada, County of Washoe.

7 50. Plaintiff is informed and believes and thereon alleges that Defendant GINO
8 V. MOTL, is a resident of the State of Florida.

9 51. Plaintiff is informed and believes and thereon alleges that Defendant
10 JOANNE TOMASIEWICZ, is a resident of the State of Florida.

11 52. Plaintiff is informed and believes and thereon alleges that Defendant PEGGY
12 LAKEY, is a resident of the State of Nevada, County of Washoe.

13 53. Plaintiff is informed and believes and thereon alleges that Defendant
14 RODGER LAKEY, is a resident of the State of Nevada, County of Washoe.

15 54. Plaintiff is informed and believes and thereon alleges that Defendant
16 WILLIAM T. HIGGS, is a resident of the State of Nevada, County of Washoe.

17 55. Plaintiff is informed and believes and thereon alleges that Defendant JUDY
18 E. HIGGS, is a resident of the State of Nevada, County of Washoe.

19 56. Plaintiff is informed and believes and thereon alleges that Defendant
20 KELVIN R. LAIRD, is a resident of the State of Nevada, County of Washoe.

21 57. Plaintiff is informed and believes and thereon alleges that Defendant
22 ROBERT J. FRICKE as Successor Trustee of the FRICKE 2001 FAMILY TRUST, is a
23 resident of the State of Nevada, County of Washoe.

24 58. Plaintiff is informed and believes and thereon alleges that Defendant
25 DARLENE LUSTER, is a resident of the State of Nevada, County of Washoe.

26 59. Plaintiff is informed and believes and thereon alleges that Defendant DEBRA
27 LYNN HORTON, is a resident of the State of Nevada, County of Washoe.

28 60. Plaintiff is informed and believes and thereon alleges that Defendant HAZEL

1 M. SIMMONS, is a resident of the State of Nevada, County of Washoe.

2 61. Plaintiff is informed and believes and thereon alleges that Defendant
3 MARJORIE M. JONES, is a resident of the State of Nevada, County of Washoe.

4 62. Plaintiff is informed and believes and thereon alleges that Defendant
5 CHARLES E. SLAVIN as Trustee for SLAVIN FAMILY REVOCABLE TRUST, is a
6 resident of the State of Nevada, County of Washoe.

7 63. Plaintiff is informed and believes and thereon alleges that Defendant
8 PATRICIA E. SLAVIN as Trustee for SLAVIN FAMILY REVOCABLE TRUST, is a
9 resident of the State of Nevada, County of Washoe.

10 64. Plaintiff is informed and believes and thereon alleges that Defendant PETER
11 ALBERT JEPHSON, is a resident of the State of Idaho.

12 65. Plaintiff is informed and believes and thereon alleges that Defendant ETHEL
13 G. JEPHSON, is a resident of the State of Idaho.

14 66. Plaintiff is informed and believes and thereon alleges that Defendant
15 CHARLES G. GELTZ, JR., is a resident of the State of Utah.

16 67. Plaintiff is informed and believes and thereon alleges that Defendant LOA
17 JEAN GELTZ, is a resident of the State of Utah.

18 68. Plaintiff is informed and believes and thereon alleges that Defendant
19 STEPHEN F. GIES, is a resident of the State of California.

20 69. Plaintiff is informed and believes and thereon alleges that Defendant
21 SHARON GIES, is a resident of the State of California.

22 70. Plaintiff is informed and believes and thereon alleges that Defendant
23 RICHARD P. ASH as Trustee for RICHARD P. AND MARY L. ASH 1990 FAMILY
24 TRUST, is a resident of the State of Nevada, County of Washoe.

25 71. Plaintiff is informed and believes and thereon alleges that Defendant MARY
26 L. ASH as Trustee for RICHARD P. AND MARY L. ASH 1990 FAMILY TRUST, is a
27 resident of the State of Nevada, County of Washoe.

28 72. Plaintiff is informed and believes and thereon alleges that Defendant

1 GEORGE M. DIXON as Trustee for DIXON ELECTRIC PENSION PLAN TRUST, is a
2 resident of the State of Nevada, County of Washoe.

3 74. Plaintiff is informed and believes and thereon alleges that Defendant
4 JENNIFER HICKOK, is a resident of the State of Nevada, County of Washoe.

5 75. Plaintiff is informed and believes and thereon alleges that Defendant
6 VERONICA DORRIE as Trustee for VERONICA DORRIE TRUST, is a resident of the
7 State of Nevada, County of Washoe.

8 76. Plaintiff is informed and believes and thereon alleges that Defendant
9 JEANNE W. KEITH, is a resident of the State of Florida.

10 77. Plaintiff is informed and believes and thereon alleges that Defendant RAY K.
11 KEITH, is a resident of the State of Florida.

12 78. Plaintiff is informed and believes and thereon alleges that Defendant HENRY
13 L. CLARK as Trustee for HENRY L. CLARK AND ROBERTA L. CLARK 1993 FAMILY
14 TRUST, is a resident of the State of Nevada, County of Washoe.

15 79. Plaintiff is informed and believes and thereon alleges that Defendant
16 ROBERTA L. CLARK as Trustee for HENRY L. CLARK AND ROBERTA L. CLARK
17 1993 FAMILY TRUST, is a resident of the State of Nevada, County of Washoe.

18 80. Plaintiff is informed and believes and thereon alleges that Defendant
19 JENNIFER R. HICKOK, is a resident of the State of Nevada, County of Washoe.

20 81. Plaintiff is informed and believes and thereon alleges that Defendant C/F
21 JAMISON LEIGH LUNDEMO, is a resident of the State of Nevada, County of Washoe.

22 82. Plaintiff is informed and believes and thereon alleges that Defendant CAROL
23 E. PORTA as Trustee for CAROL R. PORTA REVOCABLE TRUST, is a resident of the
24 State of Nevada, County of Washoe.

25 83. Plaintiff is informed and believes and thereon alleges that Defendant GAYLE
26 ROBINSON, is a resident of the State of Nevada, County of Washoe.

27 84. Plaintiff is informed and believes and thereon alleges that Defendant
28 MICHAEL JOHN PONTRELLI as Trustee for PONTRELLI FAMILY TRUST, is a resident

1 of the State of Nevada, County of Washoe.

2 85. Plaintiff is informed and believes and thereon alleges that Defendant
3 NORMA JEAN PONTRELLI as Trustee for PONTRELLI FAMILY TRUST, is a resident
4 of the State of Nevada, County of Washoe.

5 86. Plaintiff is informed and believes and thereon alleges that Defendant
6 JONATHAN EDWARD ARNOW as Trustee for TESSA ARNOW TRUST, is a resident of
7 the State of Nevada, County of Washoe.

8 87. Plaintiff is informed and believes and thereon alleges that Defendant CLYDE
9 R. BROWN as Trustee for BROWN FAMILY TRUST, is a resident of the State of Nevada,
10 County of Washoe.

11 88. Plaintiff is informed and believes and thereon alleges that Defendant
12 SHARAN L. BROWN as Trustee for BROWN FAMILY TRUST, is a resident of the State
13 of Nevada, County of Washoe.

14 89. Plaintiff is informed and believes and thereon alleges that Defendant
15 CYNTHIA G. DAVIS as Trustee for SECONDED AMENDED CYNTHIA G. DAVIS
16 LIVING TRUST DATED JULY 1, 2004, is a resident of the State of Nevada, County of
17 Washoe.

18 90. Plaintiff is informed and believes and thereon alleges that Defendant TRACE
19 W. GEIL, is a resident of the State of Nevada, County of Washoe.

20 91. Plaintiff is informed and believes and thereon alleges that Defendant MARY
21 A. GIANNOTTI as Trustee for GIANNOTTI FAMILY BYPASS TRUST CREATED
22 UNDER THE GIANNOTTI 1990 REVOCABLE TRUST DATED OCTOBER 23, 1990, is
23 a resident of the State of Nevada, County of Washoe.

24 92. Plaintiff is informed and believes and thereon alleges that Defendant
25 BEVERLY WALLACE, is a resident of the State of New York.

26 93. Plaintiff is informed and believes and thereon alleges that Defendant LOIS G.
27 ROBINSON, is a resident of the State of Nevada, County of Washoe.

28 94. Plaintiff is informed and believes and thereon alleges that Defendant JOHN

1 R. LINDELL as Trustee for LINDELL'S PAINTING SERVICE MONEY PURCHASE
2 PENSION PLAN AGREEMENT, is a resident of the State of Nevada, County of Washoe.

3 95. Plaintiff is informed and believes and thereon alleges that Defendant
4 BARBARA A. LINDELL as Trustee for LINDELL'S PAINTING SERVICE MONEY
5 PURCHASE PENSION PLAN AGREEMENT, is a resident of the State of Nevada, County
6 of Washoe.

7 96. Plaintiff is informed and believes and thereon alleges that Defendant SHERRI
8 KEY as Trustee for LINDELL'S PAINTING SERVICE MONEY PURCHASE PENSION
9 PLAN AGREEMENT, is a resident of the State of Nevada, County of Washoe.

10 97. Defendant ANGELIQUE CLARK as Trustee for CETUS MORTGAGE, is a
11 resident of the State of Nevada, County of Washoe.

12 98. Defendant STOREY COUNTY, is a political subdivision of the State of
13 Nevada.

14

15

GENERAL ALLEGATIONS

16 99. Prior to filing its bankruptcy case, Cetus Mortgage, Ltd. ("CETUS") was a
17 licensed mortgage broker, ostensibly in compliance with NRS 645B. CETUS acted as a
18 mortgage broker which arranged loans between private lenders and borrowers.

19

FIRST NOTE and FIRST DEED OF TRUST

20
21 100. In or around May of 2007, one or more CETUS representatives contacted
22 various private lenders to fund a loan to Defendants RONALD E. OSBORN and BRENT P.
23 OSBORN, hereinafter referred to as THE OSBORNS, and including OSBORN
24 DEVELOPMENT CO., LLC.

25 101. Plaintiffs, also sometimes referred to herein as THE FIRST RV PARK
26 LENDERS, agreed to fund a \$1,700,000 loan to Defendant OSBORN DEVELOPMENT
27 CO. LLC. ("FIRST LOAN").

28

102. THE FIRST RV PARK LENDERS based their decision to fund the \$1.7 million FIRST LOAN to THE OSBORNS on many factors, including the development proposed for the PROPERTY, as described below, the terms of the loan, and the recommendations of CETUS representative Marcilyn Benvin.

103. On or about May 17, 2007, Defendants OSBORN DEVELOPMENT CO. LLC, RONALD E. OSBORN and BRENT P. OSBORN executed a Promissory Note in favor of FIRST RV PARK LENDERS ("FIRST NOTE"). Pursuant to the terms of the FIRST NOTE, OSBORN DEVELOPMENT CO. LLC and THE OSBORNS promised to pay the principal sum of \$1,700,000 plus interest at the rate of 10% per annum to the FIRST RV PARK LENDERS. According to the terms of the FIRST NOTE, payments of interest only were to be paid commencing June 30, 2007, and continuing through May 31, 2008, at which time the entire unpaid balance plus accrued interest was immediately due and payable.

104. Repayment of the FIRST NOTE is secured by a deed of trust ("FIRST DEED OF TRUST") encumbering 10 acres of unimproved real PROPERTY (the "PROPERTY") located in the Tahoe Reno Industrial Center east of Reno, Nevada. THE FIRST DEED OF TRUST was recorded May 31, 2007 in the official records of Storey County, Nevada as document 106796.

105. On May 31, 2007, the FIRST RV PARK LENDERS obtained a lenders' policy of insurance from FIRST AMERICAN TITLE INSURANCE COMPANY insuring the FIRST DEED OF TRUST in senior position on the PROPERTY.

CCRS AND RECORD OF SURVEY

106. On October 4, 2007, THE OSBORNS recorded a Declaration of Covenants, Conditions and Restrictions ("CCRs") purporting to restrict and condition the use of the PROPERTY. The CCRs were recorded in the official records of Storey County, Nevada as document 107749.

107. On November 19, 2007, THE OSBORNS recorded a Record of Survey and the Provisions, Dedications, Easements and Notes ("Record of Survey") for the

1 PROPERTY. The Record of Survey was recorded in the official records of Storey County,
2 Nevada as document 108015.

3 108. Plaintiffs are informed and believe and thereon allege that the intended
4 purpose of the Record of Survey was to 'divide' the PROPERTY into 254 separate assessors
5 parcels and to utilize a series of those parcels as collateral for additional loans brokered
6 through CETUS.

7 109. Plaintiffs are informed and believe and thereon allege that the STOREY
8 COUNTY authorities improperly, and without statutory or other authority, permitted THE
9 OSBORNS to record the Record of Survey.

10 110. Plaintiffs are informed and believe and thereon allege that the STOREY
11 COUNTY authorities placed certain obligations on THE OSBORNS to take certain steps
12 and to do certain things within the 12 month period following November 19, 2007 and that
13 none of those requirements have been met by THE OSBORNS.

14 111. On March 20, 2008, Defendant OSBORN DEVELOPMENT, LLC executed a
15 deed transferring title to the PROPERTY to Defendant RV & YACHT, I, LLC. The deed
16 was recorded in the official records of Storey County, Nevada as document 108654.

17 112. Plaintiffs are informed and believe and thereon allege that on or about April 18,
18 2008, Defendant RV & YACHT I, LLC, with the assistance of CETUS, but without the
19 consent or knowledge of the FIRST RV PARK LENDERS, attempted to subdivide the
20 PROPERTY into different parcels.

21 113. Plaintiffs are informed and believe and thereon allege that Defendant RV &
22 YACHT I, LLC sought additional financing through CETUS which resulted in additional
23 loans from various lenders, repayment of which was secured by separate deeds of trust
24 encumbering the PROPERTY which had been divided into approximately 254 parcels.

25 114. Unknown to Plaintiffs, CETUS recorded additional deeds of trust against
26 portions of the PROPERTY naming each of them as beneficiaries on some but not all of the
27 parcels. CETUS did not seek permission from these Plaintiffs to be granted a beneficial
28 interest in subordinate deeds of trusts, nor did CETUS take steps to attempt to reconvey the

1 beneficial interests held by these Plaintiffs in the FIRST NOTE and FIRST DEED OF
2 TRUST.

3
4 **JUNIOR NOTE ONE AND JUNIOR DEED OF TRUST ONE**

5 115. Plaintiffs are informed and believe and thereon allege that on or about
6 November 16, 2007, more than four months before it had an interest in the PROPERTY,
7 Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$250,000
8 ("JUNIOR NOTE ONE").

9 116. Repayment of JUNIOR NOTE ONE is purportedly secured by a deed of trust
10 encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST ONE"). JUNIOR
11 DEED OF TRUST ONE was recorded April 18, 2008 in the official records of Storey
12 County, Nevada as document 108878.

13 117. The payees and beneficiaries of JUNIOR NOTE ONE and JUNIOR DEED OF
14 TRUST ONE, respectively, are :

- 15 • Defendants BILL BOOTH and LAVONE BOOTH, husband and wife
16 as joint tenants, as to an undivided 40.00% interest;
- 17 • Defendants GENE E. MCCLELLAND and PATRICIA L.
18 MCCLELLAND, Trustees or their successors in trust, under the
19 MCCLELLAND LIVING TRUST, as to an undivided 20.00%
20 interest;
- 21 • Defendants GEORGE C. SCHUMACHER and TERRY ANNE
22 SCHUMACHER, husband and wife as joint tenants, as to an
23 undivided 20.00% interest;
- 24 • Defendants DUANE E. FLESHMAN and JOHNNIE M.
25 FLESHMAN, husband and wife as joint tenants, as to an undivided
26 8.00% interest;
- 27 • Defendant STACY L. DOUTRE, custodian for DEREK M. DOUTRE
28 NV/UTMA until age 25, as to an undivided 6.80% interest;

- Defendant RAJEN N. BHATT, a single man, as to an undivided 4.20% interest;
- Defendant CETUS MORTGAGE, LTD., a Nevada corporation, as to an undivided 1.00% interest.

118. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED OF TRUST ONE purports to encumber Assessor's Parcel Numbers 004-433-25 thru 31 and 004-433-56 thru 64.

JUNIOR NOTE TWO AND JUNIOR DEED OF TRUST TWO

119. Plaintiffs are informed and believe and thereon allege that on or about November 16, 2007, more than four months before it had an interest in the PROPERTY Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$380,000 ("JUNIOR NOTE TWO").

120. Repayment of JUNIOR NOTE TWO is purportedly secured by a deed of trust encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST TWO"). JUNIOR DEED OF TRUST TWO was recorded April 18, 2008 in the official records of Storey County, Nevada as document 108880.

121. The payees and beneficiaries of JUNIOR NOTE TWO and JUNIOR DEED OF TRUST TWO, respectively, include:

- Defendants PEGGY LAKEY and RODGER LAKEY, wife and husband as joint tenants, as to an undivided 10.52% interest;
- Defendants WILLIAM T. HIGGS and JUDY E. HIGGS husband and wife as joint tenants with right of survivorship, as to an undivided 9.21% interest;
- Defendant KELVIN R. LAIRD, a single woman, as to an undivided 1.32% interest.

- Defendants GINO V. MOTL, an unmarried man or JOANNE TOMASIEWICZ, a married woman, as to an undivided 78.95% interest;

122. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED OF TRUST TWO purports to encumber APNs 004-432-12 thru 22 and 004-432-34 thru 45.

JUNIOR NOTE THREE AND JUNIOR DEED OF TRUST THREE

123. Plaintiffs are informed and believe and thereon allege that on or about April 4, 2008, Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$400,000 ("JUNIOR NOTE THREE").

124. Repayment of JUNIOR NOTE THREE is purportedly secured by a deed of trust encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST THREE"). JUNIOR DEED OF TRUST THREE was recorded April 18, 2008 in the official records of Storey County, Nevada as document 108881.

125. The payees and beneficiaries of JUNIOR NOTE THREE and JUNIOR DEED OF TRUST THREE, respectively, include:

- Defendant DARLENE LUSTER, an unmarried woman, as to an undivided 17.50% interest;
- Defendant DEBRA LYNN HORTON, an unmarried woman, as to an undivided 13.75% interest;
- Defendant HAZEL M. SIMMONS, an unmarried woman and MARJORIE M. JONES a married woman as her sole and separate PROPERTY, as to an undivided 12.50% interest;
- Defendants QUARLES E. SLAVIN and PATRICIA E. SLAVIN Trustees of the SLAVIN FAMILY REVOCABLE TRUST AGREEMENT DATED APRIL 24, 1995, as to an undivided 10.00% interest;

- Defendants PETER ALBERT JEPHSON and ETHEL G. JEPHSON, husband and wife as joint tenants, as to an undivided 5.00% interest;
- Defendants QUARLES G. GELTZ JR. and LOA JEAN GELTZ, husband and wife as joint tenants with right of survivorship, as to an undivided 3.75% interest.

126. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED OF TRUST THREE purports to encumber encumbers APNs 004-433-01 thru 06.

JUNIOR NOTE FOUR AND JUNIOR DEED OF TRUST FOUR

127. Plaintiffs are informed and believe and thereon allege that on or about November 16, 2007, more than four months before it had an interest in the PROPERTY Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$500,000 ("JUNIOR NOTE FOUR").

128. Repayment of JUNIOR NOTE FIVE is purportedly secured by a deed of trust encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST FOUR"). JUNIOR DEED OF TRUST FOUR was recorded April 18, 2008 in the official records of Storey County, Nevada as document 108882.

129. The payees and beneficiaries of JUNIOR NOTE FOUR and JUNIOR DEED OF TRUST FOUR, respectively, include :

- Defendants STEPHEN F. GIES and SHARON GIES, husband and wife as joint tenants, as to an undivided 22.00% interest;
- Defendants RICHARD P. ASH and MARY L. ASH, as Trustees for the RICHARD P. AND MARY L. ASH 1990 FAMILY TRUST, as to an undivided 20.00% interest;
- Defendant JENNIFER HICKOK, a married woman as her sole and separate PROPERTY, as to an undivided 12.00% interest;
- Defendant VERONICA DORRIE, as Trustee for VERONICA DORRIE TRUST, as to an undivided 12.00% interest;

- Defendants JEANNE W. KEITH and RAY K. KEITH, wife and husband as joint tenants, as to an undivided 5.00% interest;
- Defendants HENRY L. CLARK and ROBERTA L. CLARK, as Trustees for U/T/A JANUARY 14, 1993 HENRY L. CLARK AND ROBERTA L. CLARK 1993 FAMILY TRUST, as to an undivided 3.00% interest;
- Defendant JENNIFER R. HICKOK, C/F JAMISON LEIGH LUNDEMO, as to an undivided 3.00% interest.

130. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED OF TRUST FOUR purports to encumber APNs 004-434-16 thru 31 and 004-434-60 thru 75.

JUNIOR NOTE FIVE AND JUNIOR DEED OF TRUST FIVE

131. Plaintiffs are informed and believe and thereon allege that on or about November 16, 2007, more than four months before it had an interest in the PROPERTY Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$775,000 ("JUNIOR NOTE FIVE").

132. Repayment of JUNIOR NOTE FIVE is purportedly secured by a deed of trust encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST FIVE"). JUNIOR DEED OF TRUST FIVE was recorded April 18, 2008 in the official records of Storey County, Nevada as document 108883.

133. The payees and beneficiaries of JUNIOR NOTE FIVE and JUNIOR DEED OF TRUST FIVE, respectively, include :

- Defendant CAROL E. PORTA, as Trustee for the CAROL R. PORTA REVOCABLE TRUST, as to an undivided 17.42% interest;
- Defendant GAYLE ROBINSON, a single woman, as to an undivided 16.13% interest;

- 1 • Defendant ROBERT J. FRICKE, as Successor Trustee of the FRICKE
- 2 2001 FAMILY TRUST AGREEMENT, dated January 9, 2001, as to
- 3 an undivided 12.90% interest;
- 4 • Defendants MICHAEL JOHN PONTRELLI and NORMA JEAN
- 5 PONTRELLI, as Trustees of the PONTRELLI FAMILY TRUST
- 6 dated January 8, 2004, as to an undivided 12.90% interest;
- 7 • Defendant JONATHAN EDWARD ARNOW, as Trustee of the
- 8 TESSA ARNOW TRUST, as to an undivided 6.45% interest;
- 9 • Defendants CLYDE R. BROWN and SHARAN L. BROWN, as
- 10 Trustees of the BROWN FAMILY TRUST, as to an undivided 6.45%
- 11 interest;
- 12 • Defendants CYNTHIA G. DAVIS as Trustee for the SECOND
- 13 AMENDED CYNTHIA G. DAVIS LIVING TRUST dated July 1,
- 14 2004 and TRACE W. GEIL, an unmarried woman as joint tenants, as
- 15 to an undivided 6.45% interest;
- 16 • Defendant MARY A. GIANNOTTI, as Trustee of the GIANNOTTI
- 17 FAMILY BYPASS TRUST CREATED UNDER THE GIANNOTTI
- 18 1990 REVOCABLE TRUST dated October 23, 1990, as to an
- 19 undivided 6.45% interest;
- 20 • Defendant BEVERLY WALLACE, An unmarried woman, as to an
- 21 undivided 6.45% interest;
- 22 • Defendant LOIS G. ROBINSON, An unmarried woman, as to an
- 23 undivided 1.94% interest.

24 134. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED
25 OF TRUST FIVE purports to encumber APNs 004-435-01 thru 52.

1 **JUNIOR NOTE SIX AND JUNIOR DEED OF TRUST SIX**

2 135. Plaintiffs are informed and believe and thereon allege that on or about
3 November 16, 2007, more than four months before it had an interest in the PROPERTY,
4 Defendant RV & YACHT I, LLC executed a promissory note in the amount of \$400,000
5 ("JUNIOR NOTE SIX").

6 136. Repayment of JUNIOR NOTE SIX is purportedly secured by a deed of trust
7 encumbering a portion of the PROPERTY ("JUNIOR DEED OF TRUST SIX"). JUNIOR
8 DEED OF TRUST SIX was recorded April 18, 2008 in the official records of Storey
9 County, Nevada as document 108884.

10 137. The payees and beneficiaries of JUNIOR NOTE SIX and JUNIOR DEED OF
11 TRUST SIX, respectively, include :

- 12 • Defendants JOHN R. LINDELL and BARBARA A. LINDELL and
13 SHERRI KEY, as Trustees of the LINDELL'S PAINTING SERVICE
14 MONEY PURCHASE PENSION PLAN AGREEMENT, as to an
15 undivided 65.00% interest;
- 16 • Defendant CETUS MORTGAGE, LTD., a Nevada corporation, as to
17 an undivided 0.25% interest.

18 138. Plaintiffs are informed and believe and thereon allege that JUNIOR DEED
19 OF TRUST SIX purports to encumber APNs 004-432-01 thru 11 and 004-432-23 thru 33.

20
21 **DEFAULT**

22 139. THE OSBORNS have defaulted under the FIRST NOTE by, among other
23 things, failing to make the interest payments when due and by failing to pay the full principal
24 balance along with accrued interest due on May 31, 2008.

25 140. There now remains due, owing and payable the principal sum of \$1,700,000
26 plus accrued interest, together with late charges and costs and legal expenses as set forth in
27 the FIRST NOTE, all according to proof at time of trial or entry of judgment.

28

1 141. Pursuant to the terms of the FIRST NOTE, THE OSBORNS agreed to pay
2 reasonable attorneys' fees incurred by the FIRST RV PARK LENDERS.

3 142. The FIRST RV PARK LENDERS desire to enforce their rights pursuant to the
4 FIRST NOTE and under applicable Nevada law.

5 143. Plaintiffs are informed and believe and thereon allege that THE OSBORNS are
6 also in default on their obligations to the payees and beneficiaries purporting to hold the
7 interests in JUNIOR NOTES AND DEEDS OF TRUST ONE through SIX.

8 144. Plaintiffs are informed and believe and thereon allege that each of the
9 respective payees and beneficiaries purporting to hold the interests in JUNIOR NOTES
10 AND DEEDS OF TRUST ONE through SIX claim a senior secured position against all or a
11 portion of the PROPERTY.

12 145. Plaintiffs have been required to engage counsel to obtain a determination of
13 their rights under their FIRST NOTE and FIRST DEED OF TRUST and have incurred fees
14 and costs in doing so.

15
16 **FIRST CLAIM FOR RELIEF**

17 **(Judicial Foreclosure)**

18 146. Plaintiffs reallege and incorporate by reference paragraphs 1 through 145 as
19 if fully set forth herein.

20 147. THE OSBORNS executed the FIRST NOTE AND FIRST DEED OF TRUST
21 in favor of Plaintiffs.

22 148. THE OSBORNS defaulted under the terms of the FIRST NOTE AND FIRST
23 DEED OF TRUST by, among other things, failing to make the interest payments when due
24 and by failing to pay the full principal balance along with accrued interest due on May 31,
25 2008.

26 149. There now remains due, owing and payable the principal sum of \$1,700,000,
27 plus accrued interest, together with late charges and costs and legal expenses as set forth in
28

1 FIRST NOTE AND FIRST DEED OF TRUST all according to proof at time of trial or entry
2 of judgment.

3 150. Pursuant to the terms of the FIRST NOTE AND FIRST DEED OF TRUST
4 THE OSBORNS agreed to pay reasonable attorneys' fees incurred by Plaintiffs.

5 151. Plaintiffs have duly performed all the conditions precedent on their part that
6 are required to be performed.

7
8 **SECOND CLAIM FOR RELIEF**

9 **(Declaratory Relief)**

10 152. Plaintiffs reallege and incorporate by reference paragraphs 1 through 151 as
11 if fully set forth herein.

12 153. Plaintiffs' FIRST DEED OF TRUST was recorded May 31, 2007 in the
13 official records of Storey County, Nevada as document 106796. The beneficial interest in
14 the FIRST DEED OF TRUST has never been reconveyed.

15 154. Defendants' JUNIOR NOTES AND DEEDS OF TRUST ONE through SIX
16 were recorded in Storey County, Nevada, sequentially, as documents 108878, 108880,
17 108881, 108882, 108883 and 108884, on April 18, 2008.

18 155. An actual controversy exists between Plaintiffs and Defendants, including
19 CLARK as the Trustee of the CETUS estate, as to the nature, and priority of the
20 encumbrances on the PROPERTY represented by the FIRST DEED OF TRUST and
21 JUNIOR DEEDS OF TRUST ONE through SIX.

22 156. Plaintiffs assert that their FIRST NOTE secured by the FIRST DEED OF
23 TRUST is senior in time and thus senior in priority as an encumbrance on the PROPERTY.

24 157. Plaintiffs are informed and believe that Defendants and each of them dispute
25 that their security represented by JUNIOR DEEDS OF TRUST ONE through SIX is junior
26 to that of Plaintiffs.

27 158. Plaintiffs request a judicial determination and declaration by this Court that
28 the Plaintiffs' FIRST NOTE AND FIRST DEED OF TRUST is in full force and effect and

1 that Defendants' JUNIOR DEEDS OF TRUST ONE through SIX are junior in priority to
2 that of Plaintiffs.

3 159. A judicial determination is necessary and appropriate at this time.
4

5 **THIRD CLAIM FOR RELIEF**

6 **(Declaratory Relief)**

7 160. Plaintiffs reallege and incorporate by reference paragraphs 1 through 159 as
8 if fully set forth herein.

9 161. Plaintiffs are informed and believe and thereon allege that STOREY
10 COUNTY improperly, and without statutory or regulatory authority, permitted THE
11 OSBORNS to record the Record of Survey.

12 162. Plaintiffs are informed and believe and thereon allege that Storey County's
13 improper actions resulted in the Assessor improperly lifting a so-called 'cap' on the real
14 property tax rate which has resulted in a substantial increase in the accruing property taxes.

15 163. Plaintiffs request a judicial determination and declaration by this Court that
16 Defendant STOREY COUNTY's actions in approving and authorizing the Record of Survey
17 were in violation of applicable laws and regulations and thus null and void and that THE
18 OSBORNS have failed to do those things necessary to maintain the Record of Survey in
19 good standing and that it lapsed by operation of law.

20 164. Plaintiffs request a judicial determination and declaration by this Court that
21 the Record of Survey is null and void and no longer constitutes an encumbrance upon the
22 PROPERTY.

23 165. Plaintiffs request a judicial determination and declaration by this Court that
24 the purported increase in real property taxes asserted by STOREY COUNTY as a result of
25 the Record of Survey being improperly recorded, be rendered a nullity.

26 ///

27 ///

28 ///

1 **WHEREFORE**, Plaintiffs pray for relief as follows:

2 **An Order adjudging judicial foreclosure and that:**

3 Their interest under the FIRST DEED OF TRUST be judicially foreclosed
4 and that Judgment, in recordable form, be entered expunging all junior
5 encumbrances, liens and other charges from the STOREY COUNTY real property
6 records;

7 The usual judgment be made for the sale of their interest in the PROPERTY
8 according to law by an appropriate person appointed by the Court;

9 The proceeds of such sale are applied in payment of the amount due to
10 Plaintiffs; and

11 Defendants and all persons claiming under any documents subsequent to
12 execution and recording of the FIRST DEED OF TRUST whether as lien claimants,
13 judgment creditors, person claiming under JUNIOR DEEDS OF TRUST, purchasers,
14 encumbrances or otherwise be barred and foreclosed from all rights, claims, or equity
15 of redemption in the PROPERTY when the time for redemption has passed, and

16 **An Order adjudging that:**

17 Plaintiffs hold the senior encumbrance against the PROPERTY and that the
18 Defendants's interest are junior and subordinate to the interests of Plaintiffs, and

19 **An Order adjudging that:**

20 The Record of Survey was improperly approved by STOREY COUNTY and
21 as a result is a nullity, and that it has lapsed by operation of law and is of no force
22 and effect, and as a result, that property taxes accrued since November 19, 2007 are
23 of no force and effect, and

24 ///

25 ///

26 ///

27 ///

28 ///

Plaintiff Morrey have the authority to sell the property in accordance with the terms of the powers of attorney signed by all Plaintiffs, which includes reimbursement of expenses plus interest, and

DATED this 25th day of August, 2010.

/S/ Jeffrey L. Hartman
Jeffrey L. Hartman, Esq.
Attorney for Plaintiffs